

## Forms of Relief Quick Reference Chart

Form of Relief	Requirements	Bars	Things to Note
<b>Asylum</b> INA § 208	<ul style="list-style-type: none"> <li>- Must file within <u>1 year</u> of arrival in US</li> <li>- Past persecution or well-founded fear of future persecution</li> <li>- On account of a protected ground</li> <li>- Persecution by government or persons/organizations government unable or unwilling to control</li> <li>- Discretionary</li> </ul>	<ul style="list-style-type: none"> <li>- Persecutor of others</li> <li>- Convicted of particularly serious crime</li> <li>- Serious reasons to believe committed serious nonpolitical crime outside US</li> <li>- Danger to US security</li> <li>- Terrorism-related grounds</li> <li>- Firm resettlement in another country prior to arrival</li> </ul>	<ul style="list-style-type: none"> <li>- Grant includes derivative applicants</li> <li>- Use Form I-589 (no filing fee)</li> </ul>
<b>Withholding of Removal</b> INA § 241(b)(3)	<ul style="list-style-type: none"> <li>- Clear probability/more likely than not will suffer persecution</li> <li>- Because of a protected ground</li> <li>- Persecution by government or persons/organizations government unable or unwilling to control</li> <li>- Mandatory Relief</li> </ul>	<ul style="list-style-type: none"> <li>- Persecutor of others</li> <li>- Convicted of particularly serious crime</li> <li>- Serious reasons to believe committed serious nonpolitical crime outside US</li> <li>- Danger to US security</li> </ul>	<ul style="list-style-type: none"> <li>- No derivative applicant benefits</li> <li>- Must enter removal order to grant</li> <li>- Use Form I-589 (no filing fee)</li> </ul>
<b>Convention Against Torture (withholding)</b> 8 USC § 1231 8 CFR §§ 1208.16-18	<ul style="list-style-type: none"> <li>- More likely than not would be tortured if removed to proposed country</li> <li>- Torture must be at instigation or with consent/acquiescence of public official</li> <li>- Mandatory Relief</li> </ul>	<ul style="list-style-type: none"> <li>- Withholding of Removal bars apply</li> </ul>	<ul style="list-style-type: none"> <li>- Use Form I-589 (no filing fee)</li> </ul>
<b>CAT Deferral</b> 8 CFR § 1208.17	<ul style="list-style-type: none"> <li>- Applies when respondent is subject to mandatory bar to withholding of removal but is otherwise eligible for CAT</li> <li>- Mandatory Relief</li> </ul>	<ul style="list-style-type: none"> <li>- None</li> </ul>	<ul style="list-style-type: none"> <li>- IJ must provide CAT deferral advisals found at 8 CFR § 1208.17(b)</li> <li>- Use Form I-589 (no filing fee)</li> </ul>

\*Fee may be waived by IJ upon showing of inability to pay under 8 CFR § 1003.24(d).

Note: Burden of proof is under a preponderance of the evidence unless otherwise stated

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<b>LPR Cancellation of Removal (42A)</b> INA § 240A(a)	<ul style="list-style-type: none"> <li>- Lawfully admitted for permanent residence for <u>5 years</u></li> <li>- Continuous residence in US for <u>7 years</u> after admission in any status</li> <li>- Discretionary</li> </ul>	<ul style="list-style-type: none"> <li>- Aggravated felony</li> <li>- Alien crewmen or certain J-visa recipients</li> <li>- 212(a)(3) / 237(a)(4) security and related grounds</li> <li>- Persecutor of others</li> <li>- Previously granted cancellation, suspension, or 212(c)</li> </ul>	<ul style="list-style-type: none"> <li>- Stop-time rule applies to residence</li> <li>- Use Form EOIR-42A (\$100 filing fee)*</li> </ul>
<b>Non-LPR Cancellation of Removal</b> INA § 240A(b)(1)	<ul style="list-style-type: none"> <li>- Continuous physical presence <u>10 years</u> immediately preceding application</li> <li>- GMC <u>10 years</u> preceding IJ decision</li> <li>- Removal would result in <u>exceptional and extremely unusual hardship</u> to USC or LPR spouse, parent, or child</li> <li>- Discretionary</li> </ul>	<ul style="list-style-type: none"> <li>- Conviction under 212(a)(2), 237(a)(2), 237(a)(3) (crime and fraud grounds)</li> <li>- 42A bars apply</li> </ul>	<ul style="list-style-type: none"> <li>- Stop-time rule applies to physical presence</li> <li>- Use Form EOIR-42B (\$100 filing fee)*</li> </ul>
<b>VAWA Cancellation</b> INA § 240A(b)(2)	<ul style="list-style-type: none"> <li>- Battered or subjected to extreme cruelty by USC or LPR spouse or parent; <b>or</b>, parent of child who has been battered or subjected to extreme cruelty by their USC or LPR parent</li> <li>- Continuous physical presence and GMC for <u>3 years</u> preceding application</li> <li>- Removal would result in <u>extreme hardship</u> to alien, alien's child, or alien's parent</li> <li>- Discretionary</li> </ul>	<ul style="list-style-type: none"> <li>- Aggravated felony</li> <li>- 212(a)(2), (3); 237(a)(1)(G), (2)-(4) (crime, security, and fraud grounds)</li> </ul>	<ul style="list-style-type: none"> <li>- IJ may waive some 101(f) bars to GMC if act or conviction connected to battery or extreme cruelty</li> <li>- Use Form EOIR-42B (\$100 filing fee)*</li> </ul>
<b>NACARA Cancellation</b> NACARA § 203	<ul style="list-style-type: none"> <li>- Certain Guatemalans, Salvadorans, and Eastern Europeans who entered the US before 1991 may be eligible to apply for Special Rule Cancellation of Removal if they meet differing asylum filing and/or benefit registration deadlines</li> </ul>	<ul style="list-style-type: none"> <li>- Aggravated felony</li> </ul>	<ul style="list-style-type: none"> <li>- Applicants are subject to a heightened special rule cancellation standard if certain criminal grounds apply</li> <li>- Use Form I-881 (\$165 filing fee)*</li> </ul>

\*Fee may be waived by IJ upon showing of inability to pay under 8 CFR § 1003.24(d).

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<b>Adjustment of Status</b>	<ul style="list-style-type: none"> <li>- Inspected and admitted, paroled, or approved VAWA self-petition</li> <li>- Makes application for adjustment</li> <li>- Eligible to receive an immigrant visa and <u>admissible</u> for permanent residence</li> <li>- Immigrant visa immediately available at time of filing</li> <li>- Discretionary</li> </ul>	<ul style="list-style-type: none"> <li>- Any ground of inadmissibility</li> </ul>	<ul style="list-style-type: none"> <li>- Waivers available for some grounds of inadmissibility</li> <li>- Certain applicants who entered without inspection, overstayed, or worked without authorization may be eligible for AOS through INA § 245(i) if they are the beneficiary of a labor cert or visa petition filed on or before April 30, 2001. (\$1,000 fee may apply, may not be waived)</li> <li>- Use Form I-485 (\$1,140 filing fee)*</li> </ul>
<b>Pre-Conclusion Voluntary Departure</b> INA § 240B(a)	<ul style="list-style-type: none"> <li>- Request pre-conclusion VD prior to or at the master calendar hearing at which the case is initially set for a merits hearing</li> <li>- Request no other relief</li> <li>- Concede removability</li> <li>- Waive appeal</li> <li>- Discretionary</li> </ul>	<ul style="list-style-type: none"> <li>- Aggravated felony</li> <li>- Deportable under 237(a)(4) (security and related)</li> <li>- Arriving aliens not eligible</li> </ul>	<ul style="list-style-type: none"> <li>- IJ may grant up to <u>120 days</u> departure period</li> <li>- GMC and financial means to depart not required</li> <li>- If no travel document immediately available, IJ may still grant 120 day VD on condition that applicant secures travel docs and presents to DHS within 60 days</li> <li>- Terminates automatically if appeal filed; may be reinstated by Board</li> <li>- IJ must provide relevant VD advisals</li> <li>- No Form</li> </ul>

\*Fee may be waived by IJ upon showing of inability to pay under 8 CFR § 1003.24(d).

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<b>Post-Conclusion Voluntary Departure</b> INA § 240B(b)	<ul style="list-style-type: none"> <li>- Physically present <u>1 year</u> prior to service of NTA</li> <li>- GMC <u>5 years</u> preceding VD application</li> <li>- Show ability and intent to leave at own expense</li> <li>- Must post bond (minimum \$500) as designated by IJ</li> <li>- Discretionary</li> </ul>	<ul style="list-style-type: none"> <li>- Aggravated felony, terrorists</li> </ul>	<ul style="list-style-type: none"> <li>- IJ may grant up to <u>60 days</u> departure period</li> <li>- Terminates automatically if appeal filed; may be reinstated by Board</li> <li>- IJ must provide relevant VD advisals</li> <li>- No Form</li> </ul>

\*Fee may be waived by IJ upon showing of inability to pay under 8 CFR § 1003.24(d).  
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